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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,681	01/07/2005	Ralf Neuhaus	2002P03767WOUS	5198
7590 Siemens Corporation Intellectual Property Department 170 Wood Avenue South Iselin, NJ 08830			EXAMINER PATEL, ASHOKKUMAR B	
			ART UNIT 2154	PAPER NUMBER
			MAIL DATE 01/02/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/520,681

Applicant(s)

NEUHAUS ET AL.

Examiner

Ashok B. Patel

Art Unit

2154

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

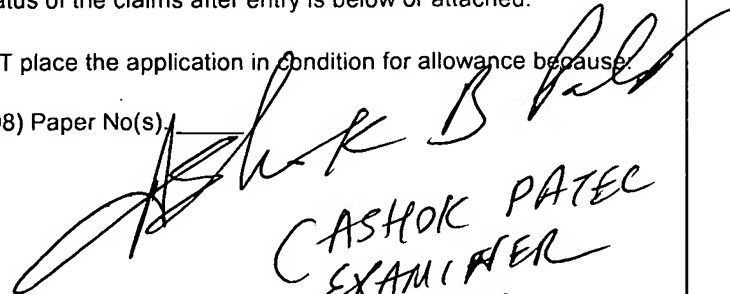
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).
13. ☐ Other: _____.


ASHOK PATEL
EXAMINER
AU 2154

Continuation Sheet: The response dated 12/14/2007 is being entered.

Response to rejections under 35 USC §102 (e)

Applicant's argument:

"These lines teach that the seed list (of other client addresses) is received from a server. The server is a central component, as shown in FIG 1 element 102, not a distributed functionality. Its description "P2P server" does not make Goodman a pure P2P network without a central server."

Examiner's response:

Please note "It is the claims that define the claimed invention, and it is claims, not specifications that are anticipated or unpatentable. *Constant v. Advanced Micro-Devices Inc.*, 7 USPQ2d 1064."

Applicant's argument stating "not a distributed functionality" and "Its description "P2P server" does not make Goodman a pure P2P network without a central server" is irrelevant since the claim limitations do not indicate any of these limitations.

Applicant's argument:

'In contrast, Applicants' clients include a search function that ascertains network addresses of other communication components (claims 8 and t6). Goodman' clients (106-120, FIG t) do not have this functionality. Goodman's clients can perform P2P searches for data and service resources on other clients, but cannot compile network address lists of other clients as in Applicants' invention. Instead, Goodman's central server 102 performs network address searching, compilation, and maintenance. Thus, Goodman provides a hybrid network architecture that is not purely centralized, and is

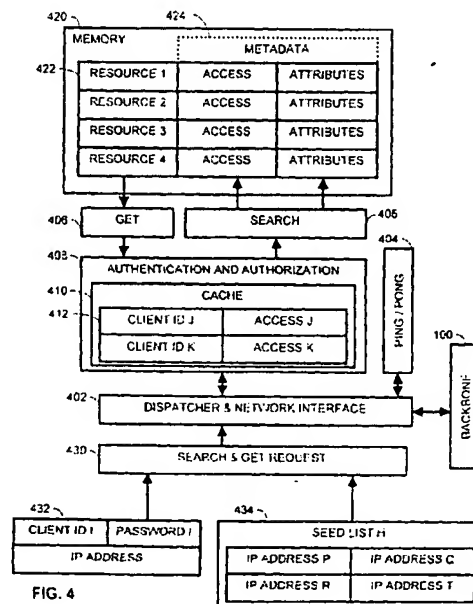
not purely P2P. The excerpts below clearly teach away from pure P2P architectures, thus teaching away from Applicants' invention. "

Examiner's response:

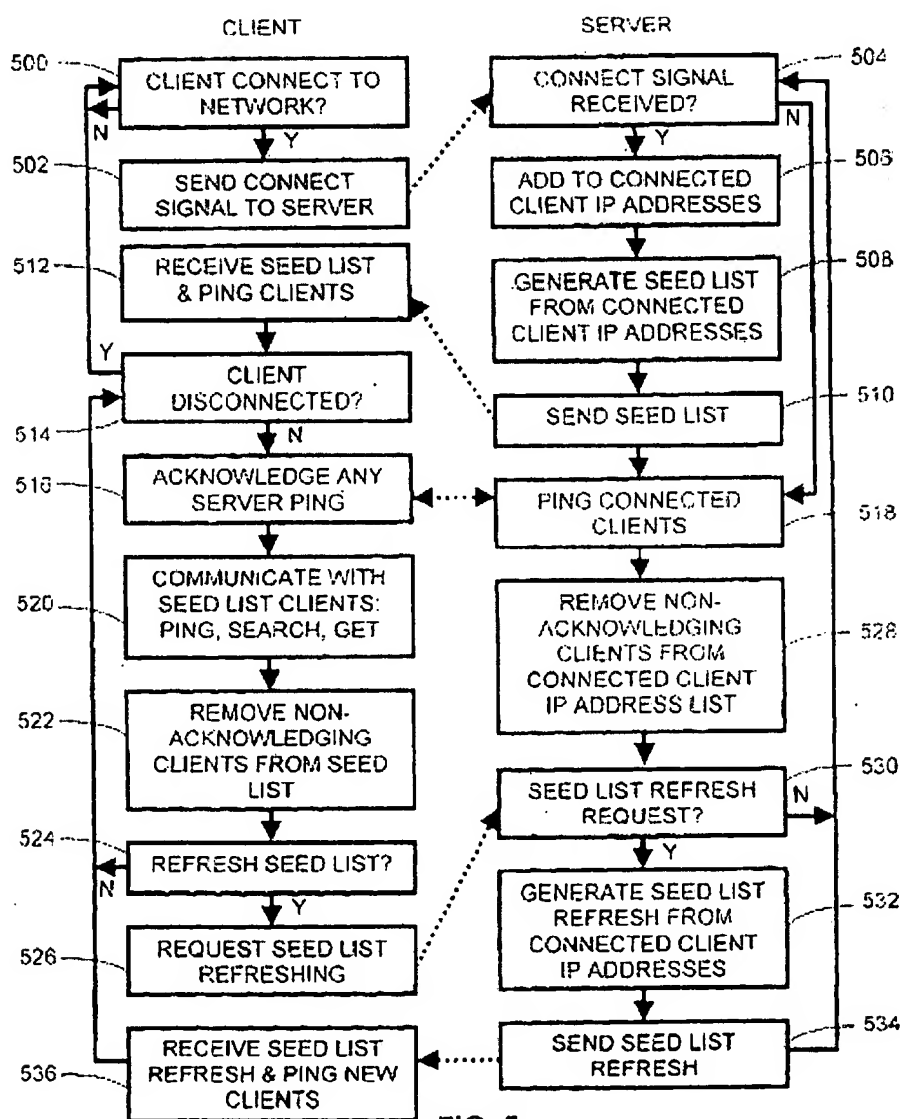
First of all, again, "It is the claims that define the claimed invention, and it is claims, not specifications that are anticipated or unpatentable. *Constant v. Advanced Micro-Devices Inc.*, 7 USPQ2d 1064."

Applicant's argument (as this is presented as teaching away from Applicants' invention) stating "is not purely P2P" is irrelevant since the claim limitations do not indicate this limitation.

Now, Examiner would like to address "Applicants' clients include a search function that ascertains network addresses of other communication components (claims 8 and 16)" that is taught by Goodman.



Goodman teaches at col. 6, line 49-51, "FIG. 4 shows a block diagram of a client of the P2P network and system operating in accordance with a preferred embodiment of the present invention." This Fig. 4 shows the "Seed List H" within the clients of Goodman. Goodman further reveals what his clients do with this "Seed List H" as follows at col. 8, line 31-58 by referring to Fig. 5.



Goodman teaches at col. 8, line 31-58, "Thereafter, the client sends a connect signal including the address of the client to the server at step 502. The server receives the connect signal at step 504 and adds the client address to the connected client address list, step 506. Step 508 generates a seed list for the client using any method including the aforementioned seed list generation methods. The seed list is sent from the server at step 510 and received by the client at step 512. Step 512 further sends a PING signal to the clients on the seed list to verify their connection to the P2P network. Non-acknowledging clients will be removed from the seed list at step 522. If the client has been disconnected at step 514, the process returns to step 500 awaiting reconnection. Disconnection can result at any time and be the result of a number of different events such as the client being powered OFF or the operator terminating the client's P2P program. It is not necessary for the client to actively signal the server that it is disconnected from the network. If still connected the client acknowledges any PING signal received as step 516. PING signals may be received from the server or other clients and are typically acknowledged with a PONG signal. Step 520 communicates with other clients performing PING, SEARCH and GET requests. If a client on the seed list does not respond to a PING, SEARCH or GET request, or may not otherwise be coupled or bound to, the client is determined to have been disconnected from the network and is removed from the seed list at step 522."

Please note that as shown in Fig. 5, the step 512 is performed by the client which is later substantiated by Goodman by stating "PING signals may be received from the

server or other clients and are typically acknowledged with a PONG signal. Step 520 communicates with other clients performing PING, SEARCH and GET requests. "

Thus Goodman clearly teaches that "clients include a search function that ascertains network addresses of other communication components."

Applicant's argument:

Applicants' system, in contrast, uses a distributed P2P architecture without centralized network address searching, compilation, and maintenance. Instead, multiple clients have these address functionalities. Applicants provide a P2P architecture without a central address server that overcomes the above disadvantages. The above lines of Goodman make it clear that he did not recognize the possibility of this P2P solution as provided by Applicants. Therefore this solution is not only novel but unobvious with respect to Goodman."

However, this refers to searching for resources, which is a normal client functionality, not searching for network addresses, which is done by Goodman in a central address server. This is clearly different than the distributed client search functionality that ascertains network addresses by multiple clients as recited in Applicants' independent claims 8 and 16. "

Examiner's response:

Please note "It is the claims that define the claimed invention, and it is claims, not specifications that are anticipated or unpatentable. *Constant v. Advanced Micro-Devices Inc.*, 7 USPQ2d 1064."

Applicant's argument stating "a distributed P2P architecture without centralized network address searching, compilation, and maintenance" and "architecture without a central address server that overcomes the above disadvantages" is irrelevant since the claim limitations do not indicate any of these limitations.

Please refer to the response for "searching for network addresses", as stated above, Goodman's teachings in reference to Fig. 5.

Response to rejections under 35 USC 103(e):

Applicant's argument:

"The proposed addition of server state information of Dutta and/or usage cost information of Bowman to the teachings of Goodman does not address the above deficiency in Goodman."

Examiner's response:

Please refer to the response for "searching for network addresses", as stated above, Goodman's teachings in reference to Fig. 5.